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Attorneys for Defendants, Knight Transportation,
Inc. and Wilmer Cruz

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA, SOUTHERN DIVISION

NANCY BELL OBRIAN, an individual;
THOMAS CHARLES OBRIAN, III, an
individual,

Plaintiffs,

v.

SUSAN HERNANDEZ-TORRES, an
individual; JORGE RODRIGUEZ-
MARTINEZ, an individual; WILMER
ANTONIO CRUZ-REYES, an individual;
KNIGHT TRANSPORTATION, INC., a
Foreign Corporation; DOES I through XX,
inclusive; and ROE BUSINESS ENTITIES I
through XX, inclusive,

Defendants.

Case No. 2:21-cv-

**DEFENDANTS' WILMER CRUZ AND
KNIGHT TRANSPORTATION, INC.'S
PETITION FOR REMOVAL**

Trial Date: None Set

COME NOW, Petitioners/Defendants KNIGHT TRANSPORTATION, INC. and WILMER
CRUZ (“Defendants”), by and through their attorneys, the law firm of WOOD, SMITH, HENNING
& BERMAN, LLP, and hereby remove the above-captioned action currently pending in the District
Court of Clark County, Nevada to the United States District Court for the District of Nevada.

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I.**BACKGROUND**

1. On or about June 17, 2021, Plaintiffs filed a Complaint in the District Court of Clark County, Nevada (hereinafter the "State Court Action"). The State Court Action was assigned Docket No. A-21-836425-C.¹

2. On or about June 24, 2019, Defendant Knight Transportation, Inc. Registered Agent accepted service of the Plaintiffs' Complaint in the State Court Action.² On or about June 22, 2021, Defendant Wilmer Cruz was served with Plaintiff's Complaint in the State Court Action. This removal is therefore timely because Defendants are removing the State Court Action within thirty (30) days after the acceptance of service of process by Defendants. 28 U.S.C. §1446(b).

3. Knight Transportation, Inc. and Wilmer Cruz are named as a Defendants in the Complaint. Plaintiff has also named Susan Hernandez-Torres and Jorge Rodrigues-Martinez as Defendants in the Complaint. The Complaint purports to assert causes of action sounding in (1) Negligence/Negligence Per Se; (2) Negligent Entrustment/Joint & Several Liability/Agency Respondeat Superior/Vicarious Liability; and (3) Negligent Hiring, Training, Supervision and Policies/Procedures.³

4. In the Complaint, Plaintiffs allege injuries as a result of two motor vehicle accidents that occurred on or about November 23, 2019 and December 25, 2019.⁴

5. Plaintiffs seek medical damages, general damages and loss in an amount in excess of \$15,000.00; special damages in an amount in excess of \$15,000.00; property damages; interest and costs incurred by Plaintiffs in bringing these claims; attorneys' fees and costs, and "such other and further relief as the Court may deem just and proper."⁵ Plaintiff Nancy Bell O'Brian has asserted

¹ **Exhibit "A"**: Plaintiffs' Complaint.

² **Exhibit "B"**: Service of Process Transmittal stamped June 24, 2021.

³ See Exhibit "A", generally.

⁴ Id. at p. 3.

⁵ Id. at p. 8.

1 she has incurred \$23,801.00 in past medical charges. She also alleges Dr. Stephen Gephardt
 2 recommends continued radio frequency ablations at least once yearly for the rest of her life. Dr.
 3 Gephardt issued a cost estimate of \$640,820.00 for this recommendation.

4 6. Pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1441(a), this Petition for Removal is
 5 being filed in the United States District Court for the District of Nevada, which is part of the "district
 6 and division" embracing the place where this action was filed – Clark County, Nevada.

7 7. Pursuant to 28 U.S.C. §1446(d), a Notice of Removal to All Adverse Parties will be
 8 promptly served upon Plaintiffs' Counsel and filed with the Clerk of the District Court of Clark
 9 County, Nevada.⁶

10 II.

11 STATUTORY REQUIREMENTS: 28 U.S.C. §1332

12 8. Diversity. This Court has diversity jurisdiction of this action pursuant to 28 U.S.C.
 13 §1332.

14 9. Plaintiffs allege in their Complaint that they are residents of the State of
 15 Pennsylvania.⁷

16 10. Defendant Knight Transportation, Inc. is an Arizona corporation.

17 11. Defendant Wilmer Cruz is a resident of Nevada.

18 12. Plaintiffs allege in their Complaint that Defendant Susana Hernandez-Torres is a
 19 resident of Nevada.⁸

20 13. Plaintiffs allege in their Complaint that Defendant Jorge Rodriguez-Martinez is a
 21 resident of Nevada.⁹

22 14. Diversity, therefore, exists because Plaintiffs are citizens of Pennsylvania and
 23

24 ⁶ **Exhibit "C"**: Notice of Filing Petition for Removal to be filed concurrently with this Petition.

25 ⁷ See Exhibit "A" at p. 1.

26 ⁸ See Exhibit "A" at p. 2.

27 ⁹ See Exhibit "A" at p. 2.

Defendants are citizens of Arizona and Nevada.

15. Amount in Controversy. Plaintiffs seek judgment against Defendants for medical damages, general damages and loss in an amount in excess of \$15,000.00; special damages in an amount in excess of \$15,000.00; property damages; interest and costs incurred by Plaintiffs in bringing these claims; attorneys' fees and costs, and "such other and further relief as the Court may deem just and proper."¹⁰ Plaintiff Nancy Bell O'Brian has asserted she has incurred \$23,801.00 in past medical charges. She also alleges Dr. Stephen Gephardt recommends continued radio frequency ablations at least once yearly for the rest of her life. Dr. Gephardt issued a cost estimate of \$640,820.00 for this recommendation

16. Therefore, this Court has jurisdiction of this action pursuant to 28 U.S.C. §1332 since the alleged amount in controversy is in excess of \$75,000.00.

III.

CONCLUSION

Based on the forgoing, Petitioners/Defendants respectfully request this action be removed to this Court, that all further proceedings in the State Court be stayed, and that Petitioners/Defendants obtain all additional relief to which they are entitled.

DATED: July 6, 2021

WOOD, SMITH, HENNING & BERMAN LLP

By: /s/ Analise Tilton

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Attorneys for Defendants, Knight Transportation, Inc.
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¹⁰ Id. at p. 8.

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of July, 2021, a true and correct copy of **DEFENDANTS' WILMER CRUZ AND KNIGHT TRANSPORTATION, INC.'S PETITION FOR REMOVAL** was served via the United States District Court CM/ECF system on all parties or persons requiring notice.

By /s/ Michelle Ledesma
Michelle N. Ledesma, an Employee of
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